THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.8240 of 2006

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DATED:20-04-2006

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BETWEEN

Devineni Basava Rao and others.

...PETITIONER

AND

State of AP, rep. by its Principal Secretary,
Municipal & Urban Development Department,

Secretariat, Hyderabad and others.

...RESPONDENTS

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.8240 of 2006

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ORDER:

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Petitioners seek a Writ of Mandamus to declare the action of the respondents

in marking a portion of the building properties bearing Municipal Assessment Nos. 45536, 45537 and 45538 respectively belonging to the petitioners, situated adjoining eastern side of Sri Krishnadevaraya Road No.6 in Ashok Nagar, leading from District Court Centre to Ashok Pillar in Eluru Municipal Corporation limits for the purpose of road widening and trying to demolish the same without following the procedure, as illegal and arbitrary.

The case of the petitioners is that they are the absolute owners and possessors of the above said premises situated adjoining Sri Krishnadevaraya Road in Ashok Nagar leading from District Court Centre to Ashok Pillar in Eluru Municipal Corporation Limits. It is stated that on 19-04-2006 the employees of the respondents visited the premises of the petitioners and marked their premises and threatened to demolish the same for the purpose of road widening.

The learned counsel for the petitioners submits that for the purpose of widening the road the respondents earmarked the structures belonging to the petitioners and the respondents are proposing to demolish the same without following due procedure prescribed in law. He further submits that even under the Andhra Pradesh Municipalities Act, 1965 (for short 'the Act') without acquiring the lands of the private citizens, portion of any property cannot be taken away for the purpose of road widening, either by way of private negotiations or by way of initiating proceedings under the Act. He further submits that the petitioners have not encroached any road and they have constructed the building or structures as per the approved plan only.

No doubt widening/laying of the road is in the public interest but while laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same by following due process of law. This Court disposed of a number of writ petitions directing the respondent not to demolish the houses of the private citizens without following due process of law or private negotiations.

Having regard to the facts and circumstances of the case,
the respondents are directed not to demolish or take away any portion of the property of the petitioners and not to dispossess them without following due process of law under Section 172(2) or 174 of the Act.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

Dated:21-04-2006

Note:

CC by Monday.

(bo)

sj